

VZCZCXYZ0000
PP RUEHWEB

DE RUEHLP #1467/01 1500708
ZNY CCCCC ZZH
P 300708Z MAY 07
FM AMEMBASSY LA PAZ
TO RUEHC/SECSTATE WASHDC PRIORITY 3733
INFO RUEHAC/AMEMBASSY ASUNCION 6815
RUEHBO/AMEMBASSY BOGOTA 4155
RUEHBR/AMEMBASSY BRASILIA 8042
RUEHBW/AMEMBASSY BUENOS AIRES 5288
RUEHCV/AMEMBASSY CARACAS 2526
RUEHPE/AMEMBASSY LIMA 2664
RUEHMD/AMEMBASSY MADRID 3490
RUEHMN/AMEMBASSY MONTEVIDEO 4643
RUEHQD/AMEMBASSY QUITO 5156
RUEHSG/AMEMBASSY SANTIAGO 9753
RUEHBS/USEU BRUSSELS
RUEHUB/USINT HAVANA 0339
RHMFSS/HQ USSOUTHCOM MIAMI FL
RUMIAAA/USCINCSO MIAMI FL
RHEHNSC/NSC WASHINGTON DC

C O N F I D E N T I A L LA PAZ 001467

SIPDIS

SIPDIS

E.O. 12958: DECL: 05/29/2017

TAGS: PHUM PGOV PREL BL

SUBJECT: GOB STEPS UP ATTACKS ON INDEPENDENT JUDICIARY

REF: A. LA PAZ 1386
B. LA PAZ 1229

Classified By: Ambassador Philip S. Goldberg for
reasons 1.4 (b) and (d).

Summary

¶11. (C) On May 15, President Morales presented to congress impeachment charges against four of five the constitutional tribunal justices (REFTEL A). The GOB and Movement Towards Socialism (MAS) officials followed with a full-blown public campaign against the judiciary, calls for the closure of the courts and the encouragement of affiliated organizations to mobilize against the courts until the supreme court and constitutional tribunal magistrates stepped down. During a visit to Sucre, the judicial capital, the Ambassador publicly noted that an independent judiciary is a crucial element of a strong democracy. At the Ambassador's private meeting with supreme court judges, they explained that Morales' goal is the destruction of the judiciary and the end of any restraint on his power. Following the meeting, the GOB responded by calling it, and the Ambassador's comments, interference in Bolivia's domestic affairs. On May 28, the president stated that the judiciary, the United States and "neo-liberal" (opposition) political parties have formed an "alliance" that opposes the GOB's process of change. Indeed, President Morales on numerous occasions has told court judges that they must submit themselves to his government's policies of change. End Summary.

A Smear Campaign

¶12. (SBU) On May 15, President Morales presented to congress impeachment charges of judicial malpractice against four of five the constitutional tribunal justices (REFTEL A). (Note: The constitutional tribunal is Bolivia's highest court on constitutional matters; the supreme court is the highest court of appeals for all other matters. End Note). The GOB followed with a full-blown propaganda campaign against the

courts. President Morales repeatedly called the courts corrupt and accused them of stealing USD \$300 million via bribes. On May 24, the GOB ran full page advertisements in major newspapers accusing the courts of being "the most corrupt institution in Bolivia." The ads included Morales' USD \$300 million claim, distorting the findings of a 2005 USAID survey titled "Cost of Corruption for Bolivian Households." The study investigated 42 different routine transactions to determine the incidence of corruption in society and estimated the total annual cost of corruption for 42 services surveyed to be approximately USD \$115 million. Given the nature of the survey, high-level courts such as the supreme court or the constitutional tribunal were not part of the study.

Get With the MAS Program

¶3. (C) President Morales May 15 impeachment charges follow his long history of antipathy for the courts. Morales often calls judges corrupt and agents of the political (opposition) parties that used to be in power. In April 2006, he argued that "certain sacred cows of judiciary" do not wish to "accompany (go along with) his government's policies of change." In October 2006, he called the Supreme court a "relic of the colonial state." At opening of the 2007 judicial year, Morales summarized his criticisms of the courts. First he denounced the entire system as corrupt and "smelling of dollars", then called the supreme court justices that he did not appoint "relics of past governments", and finally once again urged judges to follow his GOB's program of change.

¶4. (SBU) President Morales receives much support from his party when criticizing the courts. On May 22, MAS Deputy Rene Navarro announced that the courts should be closed until the Constituent Assembly completes its work. Meanwhile a MAS delegate to the Constituent Assembly in Sucre encouraged MAS-affiliated organizations to mobilize against the courts to force the supreme court and constitutional tribunal magistrates to step down. Perhaps heeding the delegate's call, GOB supporters sprayed anti-courts graffiti on the constitutional tribunal building's facade. The facade had just been restored from an April 27 dynamite attack (REFTEL B). On the same day, supreme court Magistrate Jose Gonzalez Ossio resigned his seat on the court citing pressure and "the constant questioning of the judiciary."

The Ambassador's Meeting

¶5. (C) On May 24, the Ambassador visited Bolivia's supreme court. Five of the seven supreme court judges attended. Members of the constitutional tribunal were expected to attend, but they could not as they were receiving their formal impeachment charges from Congress at the same time. Also present were USAID Director Michael Yates, Public Affairs Counselor Denise Urs, and poloff Frank DeParis (note taker). Each of the magistrates began by thanking the Ambassador for the USG's support to the judicial sector. The justices explained that Morales' end game is the destruction of the judiciary and the end of any restraint, such as judicial review, on his power.

The Justices' Views

¶6. (C) Magistrate Beatriz Sandoval de Capobianco stressed the constitutional tribunal's precarious situation and emphasized the impeachment case against the constitutional tribunal is the GOB's mechanism to prevent judicial review of the new constitution. Sandoval explained that the GOB's actions against the courts are neither random nor improvised, that Morales has been following a "step-by-step plan" to eliminate the judiciary.

¶17. (C) Magistrate Emilse Ardaya (in previous visits a more moderate voice) was forceful in her condemnation of Morales' tactics towards the courts. She stressed that the courts do not have the resources to repel the GOB's propaganda campaign. She stated that Morales is trying to co-opt the courts for his "totalitarian project."

¶18. (C) Supreme court President Hector Sandoval reiterated his public statements that the magistrates will "not submit" to the GOB's campaign to eliminate the courts. He called the judiciary the only remaining "balance of power." Sandoval explained that GOB's first attempt to control the courts -- cutting the magistrate's salaries in the hope that they would resign -- failed, so it changed strategies. The new strategy is to pressure the courts via harassment, intimidation and legal proceedings.

¶19. (C) Magistrate Rosario Canedo Justinano, the most hard-line of the five, called Morales' actions a "frontal attack" on the judiciary and democracy. Canedo characterized the court as the last guarantor of democracy. Magistrate Canedo also focused attention on how the judiciary is crucial in defending economic (contract) rights. Canedo also raised the issue of Venezuela and Cuba, arguing their goal is the "elimination of Bolivian sovereignty" and called their assistance (identification, literacy, and health programs) indoctrination systems. Finally, she argued that it was up to the United States as the "superpower" to influence the GOB.

¶10. (C) Magistrate Jaime Ampuero Garcia largely echoed the words of his colleagues. He stated that the Ambassador's visit gave the court strength to stand firm against the GOB's attacks.

Press Comments

¶11. (SBU) Following the meeting, the Ambassador held a short press briefing where he stressed the USG's long support to the courts and emphasized the need for a strong and independent judiciary for a functioning democracy. The Ambassador also rebutted the GOB's version of the USAID anti-corruption study. Despite inquiries regarding the GOB's campaign against the judiciary, the Ambassador did not comment specifically on the attacks and reiterated his statements on the need for judicial independence in a strong democracy.

The GOB Reaction

¶12. (SBU) The GOB's response to the Ambassador's meeting has been to denounce it as interference in Bolivia's domestic affairs. On May 25, MAS Deputy Edmundo Novillo and President of the lower house called the Ambassador's statements excessive and meddling. He then asked the foreign minister to send a formal complaint to the Embassy. Minister of Justice and cocalero leader Celima Torrico made a similar statement. During a May 28 speech to the Bolivian Labor's Union (COB) the president stated that the judiciary, the United States and neo-liberal (opposition) political parties have formed an alliance that opposes the GOB's process of change. He then asked the COB, an organization that is supposedly independent of the government, to form a strategic alliance with the GOB against the judiciary. The president had earlier remarked, that although the Ambassador's statements were made under the pretext of separation of powers, defending the separation of powers was really intended to defend corruption and oppose change.

Comment

¶13. (C) President Morales May 15 impeachment proceeding

against the constitutional tribunal magistrates and the GOB's subsequent propaganda campaign is only the most recent tactic in the GOB's strategy to control the courts. However, this latest move has placed the courts in real peril. The May 24 visit to the supreme court was done with respect and without direct criticism of the GOB, highlighting the universal democratic principle of separation of powers. On May 29 the Vice Minister of Foreign Affairs Hugo Fernandez "invited" the Ambassador to come to the ministry to explain his statements (SEPTEL/NOTAL). End Comment.

GOLDBERG